

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

MARTEK BIOSCIENCES CORPORATION,

Plaintiff,

v.

NUTRINOVA INC., NUTRINOVA  
NUTRITION SPECIALTIES & FOOD  
INGREDIENTS GMBH, CELANESE  
VENTURES GMBH, and CELANESE AG,

Defendants.

Civil Action No.: 03-896-GMS

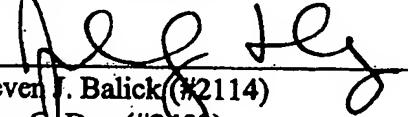
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CLERK U.S. DISTRICT COURT  
WILMINGTON, DE  
FEDERAL COURTHOUSE

**PLAINTIFF'S MOTION TO STRIKE PARAGRAPH 26 OF THE  
AFFIRMATIVE DEFENSES, DISMISS  
PARAGRAPH 48 OF COUNT I, AND DISMISS COUNT III OF  
THE COUNTERCLAIMS BY NUTRINOVA INC. AND  
NUTRINOVA NUTRITION SPECIALTIES & FOOD INGREDIENTS GMBH**

Plaintiff Martek Biosciences Corporation hereby moves for entry of an order striking Paragraph 26 of Nutrinova's Affirmative Defenses, dismissing Paragraph 48 of Count I, and dismissing Count III of Nutrinova's Counterclaims by Defendants Nutrinova Inc. and Nutrinova Nutrition Specialties & Food Ingredients GmbH. The reasons for this motion are set forth in Plaintiff's opening brief, which is being filed herewith.

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**MARTEK BIOSCIENCES CORPORATION**

**OF COUNSEL:**

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**Dated: December 15, 2003**

**136456.1**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

MARTEK BIOSCIENCES CORPORATION,      )  
  )  
Plaintiff,                          )  
  )  
v.                                  )      C.A. No. 03-896-GMS  
  )  
NUTRINOVA INC., NUTRINOVA      )  
NUTRITION SPECIALTIES & FOOD    )  
INGREDIENTS GMBH, CELANESE     )  
VENTURES GMBH, and CELANESE AG,   )  
                                      )  
Defendants.                        )

**ORDER GRANTING MOTION TO STRIKE AND DISMISS**

This \_\_\_\_ day of \_\_\_\_ , 200\_\_\_\_, plaintiff Martek Biosciences Corporation ("Martek") having moved for entry of an Order striking paragraph 26 of defendants' Nutrinova Inc. and Nutrinova Nutrition Specialties & Food Ingredients GmbH (collectively "Nutrinova") affirmative defenses, dismissing paragraph 48 of Count I of Nutrinova's counterclaims, and dismissing Count III of Nutrinova's counterclaims, and the Court, after considering the positions of the parties, having concluded that good grounds exist for the requested relief; now therefore,

IT IS HEREBY ORDERED that: Martek's motion to strike and dismiss is GRANTED. Paragraph 26 of Nutrinova's affirmative defenses is hereby stricken, and Paragraph 48 of Count I and the entire Count III of Nutrinova's counterclaims are hereby dismissed.

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United States District Judge

**CERTIFICATE OF SERVICE**

I hereby certify that on the 15<sup>th</sup> day of December, 2003, the attached PLAINTIFF'S  
**MOTION TO STRIKE PARAGRAPH 26 OF THE AFFIRMATIVE DEFENSES,**  
**DISMISS PARAGRAPH 48 OF COUNT I, AND DISMISS COUNT III OF THE**  
**COUNTERCLAIMS Y NUTRINOVA INC. AND NUTRINOVA NUTRITION SPECIAL**  
**TIES & FOOD INGREDIENTS GMBH** was served upon the below-named counsel of record  
at the address and in the manner indicated:

George Pazuniak, Esquire  
Connolly Bove Lodge & Hutz LLP  
The Nemours Building  
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Wilmington, DE 19801

**HAND DELIVERY**

John G. Day

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